

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANTS' REPLY BRIEF

APPELLANTS:	Hetzer et al.	CONFIRMATION NO. 6272
SERIAL NO.:	09/911.811	GROUP ART UNIT: 2853
FILED:	July 24, 2001	EXAMINER: Leonard s. Liang
TITLE:	"ARRANGEMENT AND METHOD FOR DATA FOLLOW UP FOR WARMUP CYCLES OF INK JET PRINT HEADS"	

MAIL STOP APPEAL BRIEF- PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

S I R:

In accordance with the provisions of 37 C.F.R. §41.41, Appellants herewith submit their Reply Brief in response to the Examiner's Answer dated June 25, 2008.

This Reply Brief will be confined to responding to the "Response to Argument" section in the Examiner's Answer, beginning at page 10 thereof.

In that section of the Examiner's Answer, the Examiner responds to Appellants' contention that the Smith et al. reference provides only general teachings regarding the manner of using the measured temperature of the nozzle or printhead for determining warm-up data in the operation of the Smith et al. printer. The Examiner provides a number of citations that, according to the Examiner, provide details regarding the use of the measured temperature in this context.

Appellants do not agree that the passages in Smith et al. cited by the Examiner provide a detailed guideline to a person of ordinary skill in the field of obtaining warm-up data for printheads, with respect to the actual use of the measured temperature of the printhead. As noted in Appellants' Main Brief, the only

output from the first memory area 2 in Figure 2A of Smith that actually proceeds to the section of the pulse generator 24A designated “pulse width control” in Figure 2B, is the output “b” from the block in section 2b designated “warmup pulses.” All of the other outputs from section 2b proceed as general inputs to the pulse generator 24A in Figure 2B. It is assumed that this additional information is used in the decision tree shown in Figure 3 of Smith et al. Appellants submit that the admittedly detailed information that is provided in Smith et al. regarding the decision tree shown in Figure 3 should not be confused with or equated with an explicit teaching of how the detected or measured temperature of the printhead is used in detail. This is important because the claims on appeal claim the additional use of detected *ambient* temperature for determining the warm-up data. If it is not clear from the disclosure of Smith et al. how the detected temperature of the printhead is used in the context of determining warm-up data, then it is even less clear how the Smith et al. reference could be modified to allegedly additionally make use of a detected ambient temperature in that context.

The Examiner has relied on the Kneezel et al. reference as disclosing the detection of ambient temperature in the context of a printer. At page 13 of the Examiner’s Answer, in line 4, the Examiner states “since the Examiner has already established that Smith et al. is valid art, all Kneezel et al. is needed for is its teaching of an ambient temperature sensor.” Appellants respectfully disagree. As noted in their Main Brief, Appellants acknowledge that the Kneezel et al. reference does disclose the detection of ambient temperature in the context of a printer but, for the reasons discussed in the Main Brief, Appellants submit that the ambient temperature does not and cannot enter into the determination of warm-up data in the Kneezel et

al. reference. This being the case, the Kneezel et al. reference is simply one of many thousands of references that might have been cited as providing a general disclosure of detecting ambient temperature in the context of operation of a printing device. Simply knowing that ambient temperature can be detected in some manner, however, does not inform a person of ordinary skill in the field of designing warm-up data as to how the detected ambient temperature might be used in the context of the warm-up procedure disclosed in Smith et al. Appellants respectfully submit it is only speculation on the part of the Examiner as to whether such additional information would even be beneficial in the warm-up procedure disclosed in Smith et al. Appellants respectfully submit the most that the Examiner might have proposed in the combination of Smith et al. and Kneezel et al. is an "obvious to try" argument, which the Federal Circuit has repeated and consistently repudiated as a proper basis for substantiating a rejection under 35 U.S.C. §103(a).

Appellants therefore respectfully submit that all rejections of the claims on appeal should be reversed.

An oral hearing is not being requested in connection with this appeal, and therefore timely submittal of the appeal to the Board of Patent Appeals and Interferences is respectfully requested.

Submitted by,



(Reg. 28,982)

Schiff, Hardin LLP, **CUSTOMER NO. 26574**
Patent Department, 6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Telephone: 312/258-5790
Attorneys for Appellants.